

Attn Technology Transfer Questions.txt  
From: eschaput [esandc@prodigy.net]  
Sent: Monday, January 26, 2009 10:31 PM  
To: GC-62  
Subject: Attn: Technology Transfer Questions

We have reviewed the DOE "Questions Concerning Technology Transfer Practices at DOE Laboratories" (Federal Register notice of November 26, 2008), with the following comments and suggestions for your consideration.

DOE asked five questions and the following thoughts be provided for your consideration:

Question #1 - Are existing arrangements adequate?

Answer #1 - The existing types of arrangement are generally adequate, but their application should be broadened and their implementation streamlined.

a.. The application of "User Agreements" should be broadened to soften the effect of DOE's 'non-competition with the private sector' policy. Distinction should be made between requests for DOE services which support DOE mission objectives and those which have no bearing on DOE mission interests. In addition, consideration should be given to the quality and timeliness of private sector services when considering a request for services from DOE. For example, favorable consideration should be given to a request for DOE services if the requested services will help the requester accelerate achievement of a DOE program or policy objective. In return, the requester might be required to provide some limited license of the achievement to DOE.

b.. Streamlining implementation is addressed in "Best Practices," question 2)  
Question #2 - Best Practices

Answer #2 - In many cases it is not the content or requirements of DOE technology transfer policy which are the concern, rather it is the length of time required for (or priority given to) processing such requests. DOE and Laboratory procedures for processing CRADAs, WFOs and User Agreements should be streamlined and delegated. From the viewpoint of a non-federal entity, there should be no difference between the processing of a technology transfer document between any of the DOE laboratories: in the internal processes, in the types of questions asked or materials required, or in the length of time required. Practices used at the major technology transfer laboratories which process many transactions each year should be reviewed for "best practices" and those best practices should be adopted by all DOE offices and laboratories.

Question #3 - U. S. Competitiveness

Answer #3 - All of the three alternative criteria described in the Federal Register notice will create additional CRADA opportunities and still adequately protect U. S. competitiveness. A fourth criteria is suggested:

a.. If a DOE developed technology has been actively 'marketed' to U. S. partners for an extended period of time (e.g. 2 years) and the U. S. partners have declined to adopt that technology in a CRADA, then partnership with a non-U. S. entity should be allowed with a less restrictive commitment for a U. S. manufacturing base. This will allow (1) U. S. firms to have 'rights of first refusal' and (2) the DOE laboratory to build on the technology before the technology becomes stale and loses value.

Question #4 - Intellectual Property

Answer #4 - I believe DOE's proposal will have a chilling effect on WFO arrangements with DOE laboratories. WFO sponsors will want to retain intellectual property resulting from their expenditures. If DOE wants to have access to WFO-generated Intellectual Property, an alternative is to (1) have the WFO sponsor continue to retain ownership of WFO-generated IP and (2) the WFO-sponsor grant a non-exclusive, non-royalty license to DOE for the subject Intellectual Property which could be used by DOE and its contractors in the execution of DOE-funded programs and projects; provided that DOE maintain the confidentiality of the sponsor-provided IP.

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Question #5 - Negotiable and Non-negotiable User Agreements

Answer #5 - no comments

Please contact us if you have any questions or comments on our input. Thank you for the opportunity to provide our thoughts on this important subject

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